MCCORMICK, BARSTOW, SHEPPARD, WAYTE & CARRUTH LLP
Jared P. Green, Nevada Bar No. 10059
jared.green@mccormickbarstow.com
Michael R. Merritt, Nevada Bar No. 5720
michael.merritt@mccormickbarstow.com
8337 West Sunset Road, Suite 350
Las Vegas, Nevada 89113
Telephone: (702) 949-1100
Facsimile: (702) 949-1101

FAIN ANDERSON VANDERHOEF ROSENDAHL O'HALLORAN SPILLANE PLLC
Eron Z. Cannon, Esq. Nevada Bar No. 8013
eron@favros.com

Attorneys for Plaintiffs

UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA, SOUTHERN DIVISION

ALLSTATE INSURANCE COMPANY, ALLSTATE PROPERTY & CASUALTY INSURANCE COMPANY and ALLSTATE INDEMNITY COMPANY,

Plaintiffs,

v.

OBTEEN N. NASSIRI, D.C., individually, JENNIFER NASSIRI, individually, JIM ANDERSEN, individually, CHRISTYN ANDERSEN, individually, DAA TRUST, a Nevada Trust, HARLEY TRUCK, LLC, a Nevada limited liability company, 181 RUSTY PLANK, LLC, a Nevada limited liability company, ANDERSEN FAMILY TRUST, a Nevada trust, ADROON, LLC, a Nevada limited liability company, 2111 S. MARYLAND, LLC, and Nevada limited liability company, FAA FOI TUITAMA, individually, ADVANCED MED LLC, a California limited liability company, GREEN TREE SERVICES, LLC, dba MTC WEST COAST MEDICAL TRAINING CENTERS, a Nevada limited-liability company, VALLEY WELLNESS AND RECOVERY, an entity of unknown origin, and, GOOD HANDS CHIROPRACTIC, INC. dba GOOD HANDS CHIROPRACTIC, a Nevada corporation,

Defendants

Case No. 2:15-cv-1434-GMN-VCF

PLAINTIFFS' MOTION FOR LEAVE TO PROPOUND ADDITIONAL INTERROGATORIES

MEMORANDUM OF POINTS AND AUTHORITIES

I.
INTRODUCTION

Plaintiffs have brought this action pursuant to Nevada's Uniform Fraudulent Transfers Act ("UFTA") following Defendant Obteen Nassiri's evasion of a judgment that now totals in excess of $8 million. As is often the case in UFTA actions, Plaintiffs have limited information on how Defendant Nassiri is transferring and hiding his assets due to Defendant Nassiri's own evasive and affirmatively obscuring actions.

Plaintiffs are seeking to conduct written discovery in connection with the location of Defendant Nassiri's assets and former assets, including interrogatories to parties. As this discovery relates to a wide variety of issues, Plaintiffs seek leave of court to serve more than 25 interrogatories, pursuant to FRCP 33(a)(1).

Plaintiffs' requested additional Interrogatories will seek specific information regarding the property owned or recently acquired by the judgment debtors—this is the most relevant and important inquiry possible in this UFTA action. Accordingly, Plaintiffs submit that the granting of leave to serve additional Interrogatories pursuant to FRCP 33(a)(1) is clearly warranted here.

II.
STATEMENT OF FACTS

A. Underlying RICO Action and Judgment Against Defendant Obteen Nassiri

Defendant Obteen Nassiri was a chiropractor licensed to practice in the State of Nevada. He owned a thriving chiropractic practice and a radiology imaging practice, and had several other lucrative property holdings and sources of income. Mr. Nassiri was involved with personal injury lawyers in Nevada performing chiropractic services, imaging services, and other services for liens on litigants' recoveries in personal injury lawsuits. This work was also very lucrative for Mr. Nassiri. Mr. Nassiri lived in a home in a guard-gated community in the Rhodes Ranch area of the Las Vegas valley, and owned and drove expensive vehicles—by all appearances, he had accumulated significant material wealth from his activities providing lien-based medical care in litigated cases.

McCormick, Barstow, Sheppard, Wayte & Carruth LLP
8337 W. Sunset Rd, Suite 350
Las Vegas, NV 89113

On March 20, 2008, a complaint was filed in Allstate Insurance Company, et al. v. Nassiri, et al. (2:08-cv-00369) naming Obteen Nassiri, Jennifer Nassiri, and others as defendants for numerous violations of the Racketeering Influenced and Corrupt Organizations Act 18 USC § 1962, Fraud and Intentional Misrepresentation, Conspiracy to Defraud, and Nevada State RICO violations (NRS 207.400) among other claims related to Mr. Nassiri's work with lawyers for personal injury litigants. *See Exhibit "1", Complaint.* After several years of litigation and a lengthy trial, Allstate obtained a judgment of the total amount of $7,116,602.90 against Mr. Nassiri and the other defendants on September 10, 2013. *See Exhibit "2", Judgment.* Thereafter, an appeal was filed by Mr. Nassiri, and the jury verdict was recently affirmed by the Ninth Circuit Court of Appeals. *See Exhibit "3", Ninth Circuit Court of Appeals Opinion*; *Exhibit "4", U.S. District Court Order on Mandate.* The current value of the Judgment is in excess of $8 million with post judgment interest. Further, the Ninth Circuit Court of Appeals has ordered that Allstate is entitled to $68,511.25 in attorney's fees for the work in defending the appeal. *See Exhibit "5", Order.*

B. Defendant Obteen Nassiri's Judgment Debtor's Examination

After the entry of judgment in case number 2:08-cv-00369, a debtor's examination was taken of Obteen Nassiri in March 2014. In summary, Mr. Nassiri testified denied having streams of income or assets to satisfy the judgment. *See Exhibit "6", Obteen Nassiri's Debtor's Examination at 31:2-10.*[1]

However, Mr. Nassiri still lives in the same home he owned prior the filing of the Judgment, he and his family are still driving luxury automobiles, and by all outward appearances he had not lost any of his material wealth. No adequate explanation was given by Nassiri for the claimed loss of all of his income and material wealth.

After Mr. Nassiri's Debtor's Examination was conducted, the examination of Faa Foi Tuitama was conducted. Mr. Tuitama testified that he had an agreement with Mr. Nassiri to act as a "straw man", as the record manager/owner of an entity called Advanced Med, LLC while Mr. Nassiri ran the business as the owner and collected the profits. *See Exhibit "7", Examination Under Oath of Faa Foi Tuitama, 29:8 - 38:24.* Mr. Tuitama would be compensated if the business was profitable in exchange for the use of his name on the Nevada Secretary of State's records for the entity. *Id. at 37:14-25; 38:1-9.* Thus, it is clear that Mr. Nassiri is acting to evade the collection of the judgment with false testimony in his Debtor's examination, and utilizing business acquaintances (and Allstate expects other are assisting Nassiri with this as well) to assist him in concealing his streams of income.

---

[1] While not wishing to burden the record or the Court with a multitude of citations to the debtor's examination transcript, the transcript is replete with responses to questions by Mr. Nassiri stating that he has none of his pre-suit assets, no current assets, and no income streams from business. The transcript is included here for the Court's review.

C. The Nassiri's Ownership of DAA Trust and Harley Truck, LLC

Obteen Nassiri admitted in his deposition that he has a trust entitled "DAA Trust". *See Exhibit "6" at 39:4-10.* However, Mr. Nassiri claimed that he did not know or did not remember when he opened it, why he opened it, or how much was in it. *Id. at 39:11-40:8.* Mr. Nassiri claimed he did not even know if the trust had more than $100,000 in it or not. *Id.* He claimed he did not know who would know have this information, or who the holder, trustee, or executor of the trust was. *Id.*

Obteen Nassiri also admitted that he helped to set up Harley Truck LLC, that he owned this LLC, and that this LLC had previously purchased investment land. *Id. at 72:7-9; 74:23-75:1.*

D. Plaintiffs' Previously-Served Interrogatories

Plaintiffs previously served Interrogatories on Obteen Nassiri, Jennifer Nassiri, Harley Truck LLC, and DAA Trust. *See Exhibit "8", Defendants Obteen Nassiri, Jennifer Nassiri, Harley Truck LLC, and DAA Trust's Responses to Interrogatories.* While these Defendants answered the initial portion of the interrogatories, they objected on grounds that certain interrogatories were compound and thus the remainder exceeded the amount provided by FRCP 33. *Id.*

The remainder of Interrogatories that were not answered request specific information regarding the following items with respect to each Defendant for the time period since 2006: any interest held in real estate (Intg. 9-10), any stocks or bonds held (Intg. 11-18), whether any securities or assets have been disposed of and what value was received, including information on the transfer (Intg. 19-20), life insurance policies held (Intg. 21), lines of credit and corresponding debts (Intg. 22-23), loans to others and corresponding information (Intg. 24-25), motor vehicles owned (Intg. 26), accountants employed

(Intg. 27), trustees and beneficiaries for DAA Trust (Intg. 28-29), financial statements (Intg. 30), retirement plans or funds (Intg. 31-32), any person or entity holding property for their benefit (Intg. 33), personal property not previously referred to (Intg. 34), and individuals with knowledge of this information (Intg. 35). *Id.*

Plaintiffs now seek to serve the above as additional Interrogatories with leave of Court.

III.
LEGAL ARGUMENT

A. Legal Standard for Service of Additional Interrogatories

FRCP 33(a)(1) provides that party must obtain leave of court to propound more than twenty-five interrogatories. This limitation is not intended "to prevent needed discovery, but to provide judicial scrutiny before parties make potentially excessive use of this discovery device." Advisory Committee Notes to the 1993 Amendments of FRCP 33.

"To secure the Court's leave, a party requesting additional interrogatories must make a particularized showing as to why additional discovery is necessary." *Santos v. Baca*, 2015 WL 6134307, at *1 (D. Nev. 2015) (*citing Ioane v. Spjute*, 2015 WL 1984835, at *1 (E.D.Cal. Apr. 30, 2015; *Archer Daniels Midland Co. v. Aon Risk Services, Inc. of Minn.*, 187 F.R.D. 578, 586 (D.Minn.1999)). "A party satisfies this burden when she establishes that the additional interrogatories seek specific, discoverable information." *Id.* (*citing McNeil v. Hayes*, 2014 WL 1125014, at *2 (E.D.Cal. Mar. 20, 2014)).

FRCP 26(b)(1) defines discoverable information "any nonprivileged matter that is **relevant to any party's claim or defense** and proportional to the needs of the case, considering the importance of the issues at stake in the action, the amount in controversy, the parties' relative access to relevant information, the parties' resources, the importance of the discovery in resolving the issues, and whether the burden or expense of the proposed discovery outweighs its likely benefit." (emphasis added).

. . .

. . .

. . .

McCormick, Barstow, Sheppard, Wayte & Carruth LLP
8337 W. Sunset Rd, Suite 350
Las Vegas, NV 89113

B. Plaintiff's Requested Interrogatories Regarding the Judgment Debtors' Property Are Clearly Discoverable in this UFTA Action

Plaintiffs seek information regarding the property of judgment debtors Obteen and Jennifer Nassiri, as well as DAA Trust (which Mr. Nassiri has admitted he owns but claims not to know any information about) and Harley Truck LLC. This is a UFTA action, where the principal allegations (supported by Mr. Nassiri's own testimony) are that these judgment debtors have concealed or transferred their assets.

The interrogatories outlined above and attached hereto all seek specific information on what property these Defendants have possessed. The existence and location of such items is the principal inquiry in this UFTA action—as such, the information sought by these Interrogatories is certainly discoverable pursuant to FRCP 26(b)(1). Accordingly, Plaintiffs should be granted leave to serve these additional Interrogatories pursuant to FRCP 33(a)(1).

IV.
CONCLUSION

Based on the foregoing, Plaintiffs respectfully request that they be granted leave to serve Interrogatories pursuant to FRCP 33(a)(1).

DATED this 23 day of September, 2016

McCORMICK, BARSTOW, SHEPPARD,
WAYTE & CARRUTH LLP

By [signature]
Jared P. Green
Nevada Bar No. 10059
8337 West Sunset Road, Suite 350
Las Vegas, Nevada 89113
Tel. (702) 949-1100

Attorneys for Plaintiffs

CERTIFICATE OF SERVICE

I hereby certify that on this 26 day of September, 2016, a true and correct copy of **PLAINTIFFS' MOTION FOR LEAVE TO PROPOUND ADDITIONAL INTERROGATORIES** was served via the United States District Court CM/ECF system on all parties or persons requiring notice.

By ______________________________
Kristin Thomas, an Employee of
MCCORMICK, BARSTOW, SHEPPARD,
WAYTE & CARRUTH LLP

03246-01462 3828197.1